

July 13, 2006

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of July 2006, at 8:00 P.M., and there were

PRESENT: JOHN ABRAHAM, JR. MEMBER

WILLIAM MARYNIEWSKI, MEMBER

JAMES PERRY, MEMBER

ARLIE SCHWAN, MEMBER

ROBERT THILL, MEMBER

JEFFREY LEHRBACH, CHAIRMAN

ABSENT: RICHARD QUINN, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

JEFFREY SIMME, BUILDING INSPECTOR

JOHN DUDZIAK, DEPUTY TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF MARK & MIKE ALBERTI:

THE 1st CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Mark and Mike Alberti, 491 Erie Street, Lancaster, New York 14086 for one [1] variance for the purpose of allowing an existing warehouse building to remain as positioned on premises owned by the petitioners at 491 Erie Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 20C.(3) of the Code of the Town of Lancaster for the purpose of allowing an existing warehouse building to remain as positioned with a 5.14 foot rear yard lot line set back.

Chapter 50, Zoning, Section 20C.(3) of the Code of the Town of Lancaster requires a twenty-five [25] foot lot line set back. The petitioners, therefore, request a 19.86 foot rear yard lot line set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Susan King P.E., representing the petitioners
King Consulting Engineers
4652 Genesee Street
Cheektowaga, New York 14225

Proponent

IN THE MATTER OF THE PETITION OF MARK & MIKE ALBERTI

THE FOLLOWING MOTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Mike and Mark Alberti and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of July 2006, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested that the petitioners investigate feasible alternatives and report back to the Board.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing motion was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

MOTION CARRIED

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PETITION OF TAMARA NELSON & BONNIE PAWLAK:

THE 2nd CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Tamara Nelson and Bonnie Pawlak, 173 Pleasant View Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to a private residence owned by the petitioners at 173 Pleasant View Drive, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Pleasant View Drive with an exterior side yard [considered a front yard equivalent] on Bridlepath Lane. The location of the proposed addition will result in a seventeen foot [17'] east exterior side yard set back on Bridlepath Lane.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five foot [35'] east exterior side yard set back on Bridlepath Lane. The petitioners, therefore, request an eighteen foot [18'] foot east exterior side yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Tamara Nelson, petitioner Proponent
173 Pleasant View Drive
Lancaster, New York 14086

IN THE MATTER OF THE PETITION OF TAMARA NELSON & BONNIE PAWLAK

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ABRAHAM
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Tamara Nelson and Bonnie Pawlak and has heard and taken testimony and

evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of July 2006, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been received and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but should not preclude the granting of the requested relief.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That the addition will not pose a safety hazard.

That many neighbors have indicated in writing that they have no objections to the proposed residential addition.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** - subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the residential addition will be only one (1) story high.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

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PETITION OF MARK & CINDY BRAUN:

THE 3rd CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Mark and Cindy Braun, 291 Ransom Road, Lancaster, New York for one [1] variance for the purpose of constructing a storage shed on premises owned by the petitioners at 291 Ransom Road, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the storage shed would result in a three [3] foot south side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot side yard lot line set back. The petitioners, therefore, request a twelve [12] foot south side yard lot line set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Mark Braun, petitioner
291 Ransom Road
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF MARK & CINDY BRAUN

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. MARYNIEWSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Mark & Cindy Braun and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of July 2006, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but it is mitigated by the character of the residence to the south and the subject residence.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That the petitioners are meticulous about the appearance of their yard.

That the refuse receptacle is not considered a permanent structure according to the Code of the Town of Lancaster.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the shed must be constructed at least five (5) feet inside the south lot line.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

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PETITION OF ROBERT & AMY NAPIERALSKI:

THE 4th CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Robert and Amy Napieralski, 5 Ravenwood Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to a private residence owned by the petitioners at 5 Ravenwood Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Ravenwood Drive with an exterior side yard [considered a front yard equivalent] fronting on Bridlepath Lane. The location of the proposed addition will result in a twenty six [26] foot west exterior side yard set back on Bridlepath Lane.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five [35] foot exterior side yard set back on Bridlepath Lane. The petitioners, therefore, request a nine [9] foot west exterior side yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Robert Napieralski, petitioner Proponent
5 Ravenwood Drive
Lancaster, New York 14086

IN THE MATTER OF THE PETITION OF ROBERT NAPIERALSKI

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. MARYNIEWSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Robert Napieralski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of July 2006, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is not self created.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.
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ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting
was adjourned at 9:27 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: July 13, 2006